

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

CLARENCE Z. HOWARD,

Plaintiff,

v.

CORIZON HEALTH
SERVICE, LLC, et al.,

Defendants.

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No. 4:20-CV-1081 JCH

MEMORANDUM AND ORDER

This matter is before the Court on plaintiff's motion for leave to amend his complaint. Also before the Court is plaintiff's motion for extension of time to pay his initial partial filing fee of \$14.03. The Court will allow plaintiff an additional twenty-one (21) days to pay his initial partial filing fee. However, his motion for leave to amend his complaint will be denied.

Plaintiff filed this action on August 14, 2020. On December 2, 2020, the Court dismissed the complaint under 28 U.S.C. U.S.C. § 1915(e)(2)(B) after finding the case to be frivolous. Plaintiff's proposed amended complaint contains allegations that are substantially similar to the original complaint, making this the third time he is attempting to bring the same allegations in this Court as an in forma pauperis litigant.

As the Court told plaintiff in the Memorandum and Order issued on December 2, 2020, while the dismissal of plaintiff's prior litigation "does not bar future litigation over the merits of a paid complaint making the same allegations as the dismissed complaint," a § 1915(e)(2)(B) dismissal "has res judicata effect 'on frivolousness determinations for future in forma pauperis petitions.'" *Waller v. Goose*, 38 F.3d 1007, 1008 (8th Cir. 1994) (per curiam) (citing *Denton v.*

Hernandez, 504 U.S. 25 (1992)); *see also Cooper v. Delo*, 997 F.2d 376, 377 (8th Cir. 1993) (§ 1915(e) dismissal has res judicata effect on future in forma pauperis petitions).

Because plaintiff's amended complaint has the same defects as his original complaint, the Court finds that it would be futile to allow plaintiff to file it with the Court. As a result, plaintiff's motion to amend his complaint will be denied.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion for extension of time to pay his initial partial filing fee [Doc. #11] is **GRANTED**.

IT IS FURTHER ORDERED that plaintiff shall pay his initial partial filing fee of \$14.03 within twenty-one (21) days of the date of this Memorandum and Order.

IT IS FURTHER ORDERED that plaintiff's motion to amend his complaint [Doc. #12] is **DENIED**.

Dated this 23rd day of December, 2020.

/s/ Jean C. Hamilton
JEAN C. HAMILTON
UNITED STATES DISTRICT JUDGE